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8 *Attorneys for Defendant*
Paramount Pictures Corporation

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 SHOSH YONAY and YUVAL YONAY,

13 Plaintiffs,

14 v.

15 PARAMOUNT PICTURES
16 CORPORATION, a Delaware corporation,
and DOES 1-10,

17 Defendants.
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Case No. 2:22-CV-3846-PA

**DECLARATION OF
MATTHEW KAISER IN
SUPPORT OF PARAMOUNT
PICTURES CORPORATION'S
NOTICE OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT**

Hearing Date: January 8, 2024
Hearing Time: 1:30 PM
Place: Courtroom 9A
Judge: Hon. Percy Anderson

1 I, Matthew Kaiser, declare and state:

2 1. I am a member in good standing of the State Bar of California and am
3 a counsel at O'Melveny & Myers LLP.

4 2. I am counsel for Defendant Paramount Pictures Corporation
5 ("PPC") in the above-entitled action, and I make this declaration in support of
6 PPC's Motion for Summary Judgment (the "Motion"). I have personal knowledge
7 of the matters set forth in this declaration and if called to testify to the facts stated
8 herein, I could and would do so competently.

9 **L.R. 7-3 Meet and Confer**

10 3. On October 11, 2023, my colleague Danielle Feuer sent Plaintiffs'
11 counsel a meet-and-confer letter pursuant to Local Rule 7-3 advising Plaintiffs'
12 counsel of PPC's intent to file the Motion as well as a motion to exclude the expert
13 report and testimony of Henry Bean and outlining the grounds for both motions.

14 4. On October 13, 2023, my colleague Danielle Feuer and I met and
15 conferred with Plaintiffs' counsel Marc Toberoff via Zoom videoconference about
16 the grounds for and substantive legal arguments in support of the Motion. The
17 parties were unable to reach a resolution.

18 **Exhibits**

19 5. Attached hereto as **Exhibit 1** is a true and correct copy of an excerpt of
20 *No Margin for Error* by Ehud Yonay, produced by Plaintiffs in this matter with the
21 Bates numbers YONAY00056 – YONAY00057 and YONAY00501, and marked
22 as Exhibit 36 to Plaintiff Shosh Yonay's October 5, 2023 deposition.

23 6. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts
24 from Plaintiff Shosh Yonay's October 5, 2023 deposition.

25 7. Attached hereto as **Exhibit 3** is a true and correct copy of the webpage
26 <http://www.yonayolives.co.il/Site/he/pages/inPage.asp?catID=74>, as it appeared on
27 November 23, 2010, retrieved by me on August 1, 2023 using
28 <https://www.archive.com>, produced by PPC in this matter with the Bates numbers

1 TGM0168158 – TGM0168160, and marked as Exhibit 31 to Plaintiff Shosh
2 Yonay's October 5, 2023 deposition.

3 8. Attached hereto as **Exhibit 4** is a true and correct copy of the webpage
4 <http://www.yonayolives.co.il/Site/he/pages/inPage.asp?catID=74>, as it appeared on
5 December 26, 2020, retrieved by me on August 1, 2023 using
6 <https://www.archive.com>, produced by PPC in this matter with the Bates numbers
7 TGM0168155 – TGM0168157, and marked as Exhibit 32 to Plaintiff Shosh
8 Yonay's October 5, 2023 deposition.

9 9. Attached hereto as **Exhibit 5** is a true and correct copy of Plaintiff
10 Shosh Yonay's August 21, 2023 Amended Responses and Objections to PPC's
11 First Set of Requests for Admission.

12 10. Attached hereto as **Exhibit 6** is a true and correct copy of Plaintiff
13 Yuval Yonay's August 21, 2023 Amended Responses and Objections to PPC's
14 First Set of Requests for Admission.

15 11. Attached hereto as **Exhibit 7** is a true and correct copy of Plaintiff
16 Shosh Yonay's September 28, 2023 Responses and Objections to PPC's Second Set
17 of Interrogatories.

18 12. Attached hereto as **Exhibit 8** is a true and correct copy of Plaintiff
19 Yuval Yonay's September 28, 2023 Responses and Objections to PPC's Second Set
20 of Interrogatories.

21 13. Attached hereto as **Exhibit 9** is a true and correct copy of Plaintiffs'
22 First Amended Complaint, filed August 31, 2022 as ECF Docket No. 16.

23 14. Attached hereto as **Exhibit 10** is a true and correct copy of the July 7,
24 2023 Expert Report of Henry Bean.

25 15. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts
26 from Henry Bean's September 13, 2023 deposition.

27 16. Attached hereto as **Exhibit 12** is a true and correct copy of Plaintiff
28 Shosh Yonay's August 21, 2023 Amended Responses and Objections to PPC's

1 First Set of Interrogatories.

2 17. Attached hereto as **Exhibit 13** is a true and correct copy of Plaintiff
3 Yuval Yonay's August 21, 2023 Amended Responses and Objections to PPC's
4 First Set of Interrogatories.

5 18. Attached hereto as **Exhibit 14** is a true and correct copy of a
6 Navy.com webpage titled "PATCH WEARERS" and subtitled "THE REAL
7 TOPGUN," located at <https://www.navy.com/faces-fleet-ep-19-patch-wearers>,
8 retrieved by me on August 2, 2023, and produced in this matter by PPC with Bates
9 numbers TGM0168161 – TGM0168172.

10 19. **Exhibit 15** to this declaration is a true and correct copy of a video clip
11 titled "Ep. 19: Patch Wearers: The Real TOPGUN" with a runtime of 8 minute and
12 44 seconds from a Navy.com webpage located at [https://www.navy.com/faces-](https://www.navy.com/faces-fleet-ep-19-patch-wearers)
13 [fleet-ep-19-patch-wearers](https://www.navy.com/faces-fleet-ep-19-patch-wearers), retrieved by me on August 2, 2023, and produced in this
14 matter by PPC with Bates number TGM0168173. A physical copy of Exhibit 15 is
15 being lodged with the Court on a USB drive.

16
17 I declare under penalty of perjury that the foregoing is true and correct.
18 Executed on November 6, 2023 in Los Angeles, California.

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Matthew Kaiser